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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 27, 2002

APPLICATION OF

ADELPHIA BUSINESS SOLUTIONS  
INVESTMENT EAST, LLC

CASE NO. PUC020012

For certificates of public  
convenience and necessity to  
provide local exchange and  
interexchange telecommunications  
services and interim operating  
authority

ORDER FOR NOTICE AND COMMENT AND GRANTING INTERIM AUTHORITY

On January 31, 2002, Adelphia Business Solutions Investment East, LLC ("ABS East" or the "Applicant"), filed an application for certificates of public convenience and necessity ("certificates") with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim authority to provide the above-referenced telecommunications services.<sup>1</sup> ABS East requests interim

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<sup>1</sup> ABS East intends to assume certain of the assets, operations, and customers of an affiliated company, Adelphia Business Solutions of Virginia, LLC ("Adelphia Virginia"), that is already certificated to provide local and interexchange telecommunications services in the Commonwealth. Adelphia

authority for a period of time sufficient to allow certain final Commission rulings directly affecting ABS East to become effective.<sup>2</sup>

ABS East also requests a waiver of the notice requirements in 20 VAC 5-400-180(B)(2) and 20 VAC 5-411-20<sup>3</sup> requiring notice of its application to interested parties and the public. In support of its request, ABS East states that since it will be merely assuming the current operations of a carrier already certificated in the Commonwealth in a particular service territory of such carrier, no purpose is served by giving notice of what is essentially an internal reorganization of Adelphia subsidiaries and affiliates.

NOW UPON CONSIDERATION of the application, the Commission is of the opinion and finds that ABS East's application should be docketed; that interested parties should have an opportunity to comment and request a hearing on ABS East's application; and that the Commission Staff should conduct an investigation into

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Virginia currently holds Certificate Nos. T-433b and TT-63C. Although ABS East is requesting state-wide certification, it will initially assume and operate the Norfolk area network of Adelphia Virginia.

<sup>2</sup> In Case No. PUA010080, ABS East and certain other affiliated entities have pending before the Commission a request for approval of a corporate restructuring that would transfer certain Adelphia Virginia assets and operations to ABS East. Because Commission approval in Case No. PUA010080 may precede approval in this case, ABS East requests interim authority to operate the assets transferred until such time as the Commission approves its application in the case at bar.

<sup>3</sup> On October 17, 2001, 20 VAC 5-411-20 replaced 20 VAC 5-400-60(C).

the reasonableness of the application and present its findings in a Staff Report.

We deny ABS East's request for waiver of the notice requirements as contrary to the provisions of § 56-265.4:4 of the Code of Virginia. Section 56-265.4:4 B 1 authorizes the Commission to grant certificates to applicants proposing to furnish local exchange telephone service in the service territory of another certificate holder only after notice has been provided to all local exchange carriers certificated in the Commonwealth and other interested parties. The Commission cannot waive this statutory requirement. Additionally, since Adelphia Virginia currently provides telecommunications services in Virginia, the requirement to provide notice to interested parties and the public will provide an opportunity for current or past Adelphia Virginia customers to provide comments to the Commission regarding certification of ABS East. Therefore, we find that the Applicant must give proper notice of its application, as required by § 56-265.4:4 of the Code of Virginia, 20 VAC 5-400-180, and 20 VAC 5-411-20.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUC020012.
- (2) Adelphia Business Solutions Investment East, LLC, is hereby authorized to operate and provide telecommunications services to customers under the tariffs of Adelphia Business

Solutions of Virginia, LLC, until the Commission renders a decision in this proceeding.

(3) ABS East's request for waiver of the notice requirements is denied.

(4) On or before March 19, 2002, the Applicant shall complete publication of the following notice to be published on one (1) occasion as classified advertising in newspapers having general circulation throughout the Applicant's proposed service territory:

NOTICE TO THE PUBLIC OF AN APPLICATION BY  
ADELPHIA BUSINESS SOLUTIONS INVESTMENT EAST,  
LLC, FOR CERTIFICATES OF PUBLIC CONVENIENCE  
AND NECESSITY TO PROVIDE LOCAL EXCHANGE AND  
INTEREXCHANGE TELECOMMUNICATIONS SERVICES  
THROUGHOUT THE COMMONWEALTH OF VIRGINIA AND  
FOR INTERIM OPERATING AUTHORITY  
CASE NO. PUC020012

On January 31, 2002, Adelphia Business Solutions Investment East, LLC ("ABS East" or "Applicant"), filed an application with the State Corporation Commission ("Commission") for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. In its application, the Applicant also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia and requested interim operating authority to provide telecommunications services under the current tariffs of Adelphia Business Solutions of Virginia, LLC ("Adelphia Virginia").

On January 8, 2002, Adelphia Virginia and ABS East filed a joint petition pursuant to

Chapter 5 of Title 56 of the Code of Virginia requesting approval of a transfer of assets from Adelphia Virginia to ABS East. That proceeding is docketed as Case No. PUA010080. If approved, that Petition will not transfer Adelphia Virginia's Certificate Nos. T-433b and TT-63C to provide local exchange and interexchange telecommunications services to ABS East. Accordingly, on January 31, 2002, ABS East filed this Application for certificates of public convenience and necessity ("certificates") to provide local exchange and interexchange telecommunications services.

Copies of the application are available for public inspection between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, in the Commission's Document Control Center located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, or can be ordered from ABS East's counsel, Russell M. Blau, Esquire, or Michael P. Donahue, Esquire, Swidler Berlin Shereff Friedman, LLP, 3000 K Street, N.W., Suite 300, Washington, DC 20007-5116.

Any person desiring to comment on ABS East's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments in writing on or before April 2, 2002, to the Clerk of the Commission at the address set out below.

Any person may request a hearing on ABS East's application by filing an original and fifteen (15) copies of its request for hearing on or before April 2, 2002, with the Clerk of the Commission at the address set out below. Requests for hearing must state with specificity why a hearing should be conducted.

All written communications to the Commission concerning ABS East's application should be directed to Joel H. Peck, Clerk of

the State Corporation Commission, c/o  
Document Control Center, P.O. Box 2118,  
Richmond, Virginia 23218, and must refer to  
Case No. PUC020012.

ADELPHIA BUSINESS SOLUTIONS INVESTMENT EAST, LLC

(5) On or before March 19, 2002, Applicant shall provide a copy of the notice contained in ordering paragraph four (4) to each local exchange telephone carrier certificated in Virginia and each interexchange carrier certificated in Virginia by personal delivery or first-class mail, postage prepaid, to the customary place of business. Lists of all current local exchange and interexchange carriers in Virginia are attached to this Order as Appendices A and B, respectively.

(6) Any person desiring to comment in writing on ABS East's application for certificates to provide local exchange and interexchange telecommunications services may do so by directing such comments on or before April 2, 2002, to the Clerk of the Commission at the address set forth below. Comments must refer to Case No. PUC020012.

(7) On or before April 2, 2002, any person wishing to request a hearing on ABS East's application for certificates to provide local exchange and interexchange telecommunications services shall file an original and fifteen (15) copies of its request for hearing in writing with Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O.

Box 2118, Richmond, Virginia 23218. Written requests for hearing shall refer to Case No. PUC020012 and shall state the following: (i) a precise statement of the interest of the filing party; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. Copies shall also be served on the Applicant.

(8) On or before April 16, 2002, the Applicant shall file with the Commission proof of notice and proof of service as ordered herein.

(9) The Commission Staff shall analyze the reasonableness of ABS East's application and present its findings in a Staff Report to be filed on or before April 26, 2002.

(10) On or before May 3, 2002, the Applicant shall file with the Clerk of the Commission an original and fifteen (15) copies of any response to the Staff Report or parties' objections and requests for hearing. A copy of the response shall be delivered to Staff and the other parties by overnight delivery.

(11) The Applicant shall respond to written interrogatories or data requests within seven (7) days after the receipt of the same. Parties shall provide to the Applicant, other additional parties, and Staff any workpapers or documents

used in preparation of their requests for hearing, promptly upon request. Except as so modified, discovery shall be in accordance with Part IV of the Rules.

(12) This matter is continued generally.